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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,449	09/23/2003	Lina Strand Backman	1018798-000162	9444
21839 7590 06/13/2008 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404				
EXAMINER DANNEMAN, PAUL				
ART UNIT 3627		PAPER NUMBER		
NOTIFICATION DATE 06/13/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

### Office Action Summary

**Application No.**

10/667,449

**Applicant(s)**

BACKMAN, LINA STRAND

**Examiner**

PAUL DANNEMAN

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Response to Amendment

1. This action is in reply to Applicant's response, filed 13 May 2008 to the first office action.
2. No claims were amended.
3. No claims were canceled.
4. Claims 1-20 are pending and have been examined.

### Response to the Arguments

5. With regards to the independent Claims 1, 5, 10 or 17 the Applicant argues ***"The Official Action appears to suggest, however, that because a product comparison is disclosed, it would have been obvious to present the comparison in a visual manner. To the extent this modification results in the visual presentation of first and second know products to a consumer, Jain still fails to show the presentation to the consumer of one or more intermediate visual presentations of at least one of the first and second products by changing the appearance of the at least one characteristic of the first product to more closely resemble the at least one characteristic of the second product."***

The Examiner respectfully disagrees. Jain as disclosed in the ABSTRACT is a method, system and computer program product for automating the design of **online** marketing research activity, its deployment and the analysis and reporting of the obtained data, determining the marketing information required to meet the marketing objectives, selecting a target group of participants and effectively deploying the marketing research approach design. Jain in at least paragraph [0014] further discloses determining the marketing information required to meet the marketing research objectives and in paragraphs [0024 and 0064] further discloses some of the objectives to be product preference test, new product acceptance, desired feature enhancement to a product, In at least paragraph [0173] Jain further discloses the use of feedback, comparison with other products etc., depending on the merchant's marketing objective and in Table 2 determining the value of product attributes by comparison of attributes in an advertisement, a survey, etc. Therefore, it would have been obvious, at the time of the invention, to

one of ordinary skill in the art that product comparisons as disclosed by Jain are conducted by providing the target group (focus group) with models, visual images, multi-media images and similar tangible attributes which the target group can easily grasp the differences in product attributes presented by the marketing research group. Examiner maintains that the independent claims and the dependent claims are properly rejected and remain rejected.

***Claim Rejections - 35 USC § 103***

6. **Claims 1-2, 5-7, 10-11, and 14-18** rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al., US2003/0195793, henceforth known as Jain.
7. **Examiner's note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

**Claims 1-2, 10-11, and 14-18:**

- ***Identifying and informing the potential customer of a new product.***
- ***Presenting to potential consumer a visual of a first product.***
- ***Presenting to potential consumer a visual of a similar product.***
- ***Modifying visual of first product to appear like the similar product.***

Jain in at least paragraph [0023 and 0092] discloses the deployment of a computerized marketing research activity tool that adaptively adjusts the number and selection of participants and dynamically adjusts the marketing research activity in a manner that will maximize the value of the information and minimize the cost of the information collected from the participants. Jain does not specifically disclose presenting visual images of a product per se. However, Jain in at least

paragraph [0173] discloses the use of product comparisons to personalize the information presented to potential consumers and in Table 2 discloses using an advertisement of a similar product or the new product to determine a potential consumer's inclination to buy the product. Therefore, it would be obvious, at the time of invention, to one of ordinary skill in the art, to determine that the presentation of an advertisement of the similar product or the new product is equivalent to Applicant's presentation of a visual.

**Claims 5-7:**

- ***Identifying a panel of people;***
- ***Presenting to a panelist a visual of a first known tangible product.***
- ***Presenting a visual of a second product.***
- ***Presenting an intermediate product with characteristics of first and second product.***
- ***Surveying a panelist on impressions of the products and their associated features.***

Jain in at least paragraph [0001] discloses an invention that automates the design of Marketing Research including one or more research approaches, e.g., marketing experiments, surveys, interviews, focus group discussions and the like. Jain in at least paragraph [0149 and 0173] discloses personalizing the Research Approach Design Tool by modifying the research design, i.e., the experiment, the survey questionnaire to suit an individual customer to maximize the value of the information obtained from a customer. Jain does not specifically disclose presenting visual images of a product per se. However, Jain in at least paragraph [0173] further discloses the use of product comparisons to personalize the information presented to potential consumers and in Table 2 discloses using an advertisement of a similar product or the new product to determine a potential consumer's inclination to buy the product. Therefore, it would be obvious, at the time of invention, to one of ordinary skill in the art, to determine that the selection of a panel of people is similar to setting up a focus group and the presentation of an advertisement of a similar product or the new product is equivalent to Applicant's presentation of a visual.

8. **Claims 3-4, 8-9, 12-13, and 19-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Jain as applied to claims 1-2, 10-11, and 17-18 above, and further in view of Zawilinski, US 5,676,138..

**Claims 3-4, 8-9, 12-13, and 19-20:**

- *Visual presentation is still images.*
- *Visual presentation is moving images.*

Zawilinski in at least Column 3, lines 28-62 discloses a computerized multimedia system for measuring, analyzing, storing, and displaying emotional responses elicited by humans when presented a stimulus such as a television commercial. Zawilinski in at least Column 5, lines 63-67 further discloses that the interactive multimedia computer is capable of at least visually displaying one stimulus presented at any given time interval. Zawilinski does not specifically disclose still images per se, however in at least Fig. 2 and Column 6, lines 36-42 discloses a representative screen with the stimulus. Therefore, it would be obvious, at the time of the invention, to one of ordinary skill to be motivated to combine Jain's marketing research activity with Zawilinski's multimedia stimuli and response analyzer to obtain a better indicator of a customer's response to various products or their features.

**Conclusion**

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL DANNEMAN whose telephone number is (571)270-1863. The examiner can normally be reached on Mon.-Thurs. 6AM-5PM Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art Unit  
3627

/Paul Danneman/

Examiner, Art Unit 3627

6 June 2008